

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

AMY M. BRUNNER
600 South Sierra Vista
Alhambra, CA 91801

Registered Nurse License No. 604898

Respondent

Case No. 2004-287

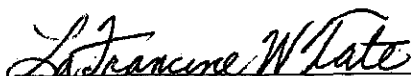
OAH No. L-2004060245

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on October 24, 2005.

IT IS SO ORDERED September 23, 2005.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 BILL LOCKYER, Attorney General
of the State of California
2 LINDA L. SUN, State Bar No. 207108
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-6375
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 AMY M. BRUNNER
600 South Sierra Vista
Alhambra, California 91801

14 Registered Nurse License No. 604898

15 Respondent.

Case No. 2004-287

OAH No. L-2004060245

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Director
21 of the Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Bill Lockyer, Attorney General of the State of California, by Linda
23 L. Sun, Deputy Attorney General.

24 2. Respondent Amy M. Brunner (Respondent) is represented in this
25 proceeding by attorney J. Michael Flanagan, whose address is FLANAGAN, UNGER &
26 GROVER, Attorneys at Law, 1156 North Brand Boulevard, Glendale, California 91202-2582.

27 3. On or about August 20, 2002, the Board of Registered Nursing issued
28 \\\

1 Registered Nurse License No. 604898 to Amy M. Brunner (Respondent). The License will
2 expire on January 31, 2006, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 2004-287 was filed before the Board of Registered
5 Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent.
6 The Accusation and all other statutorily required documents were properly served on Respondent
7 on April 15, 2004. Respondent timely filed her Notice of Defense contesting the Accusation. A
8 copy of Accusation No. 2004-287 is attached as exhibit A and incorporated herein by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, fully discussed with counsel, and
11 understands the charges and allegations in Accusation No. 2004-287. Respondent has also
12 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
13 Settlement and Disciplinary Order.

14 6. Respondent is fully aware of her legal rights in this matter, including the
15 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
16 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
17 the right to present evidence and to testify on her own behalf; the right to the issuance of
18 subpoenas to compel the attendance of witnesses and the production of documents; the right to
19 reconsideration and court review of an adverse decision; and all other rights accorded by the
20 California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
22 each and every right set forth above.

23 **CULPABILITY**

24 8. Respondent understands that the charges and allegations in Accusation No.
25 2004-287, if proven at a hearing, constitute cause for imposing discipline upon her Registered
26 Nurse's license.

27 9. For the purpose of resolving the Accusation without the expense and
28 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
JUL 30 2004 3:15 PM
JUL 30 2004 3:15 PM

1 establish a factual basis for the charges in the Accusation and that those charges constitute cause
2 for discipline. Respondent hereby gives up her right to contest that cause for discipline exists
3 based on those charges.

4 10. Respondent agrees that her Registered Nurse License is subject to
5 discipline and she agrees to be bound by the Registrar's imposition of discipline as set forth in the
6 Disciplinary Order below.

7 **CIRCUMSTANCES IN MITIGATION**

8 11. Respondent has never been the subject of any disciplinary action. She is
9 admitting responsibility at an early stage in the proceedings.

10 **RESERVATION**

11 12. The admissions made by Respondent herein are only for the purposes of
12 this proceeding, or any other proceedings in which the Board of Registered Nursing or other
13 professional licensing agency is involved, and shall not be admissible in any other criminal or
14 civil proceeding.

15 **CONTINGENCY**

16 13. This stipulation shall be subject to approval by the Board. Respondent
17 understands and agrees that counsel for Complainant and the Board's staff may communicate
18 directly with the Board regarding this stipulation and settlement, without notice to or
19 participation by Respondent or her counsel. By signing the stipulation, Respondent understands
20 and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the
21 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its
22 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
23 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
24 and the Board shall not be disqualified from further action by having considered this matter.

25 14. The parties understand and agree that facsimile copies of this Stipulated
26 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
27 force and effect as the originals. /s/

28 15. In consideration of the foregoing admissions and stipulations, the parties

1 agree that the Board may, without further notice or formal proceeding, issue and enter the
2 following Disciplinary Order:

3 **DISCIPLINARY ORDER**

4 IT IS HEREBY ORDERED that Registered Nurse License No. 604898 issued to
5 Respondent Amy M. Brunner is revoked. However, the revocation is stayed and Respondent is
6 placed on probation for three (3) years on the following terms and conditions.

7 **Severability Clause.** Each condition of probation contained herein is a separate
8 and distinct condition. If any condition of this Order, or any application thereof, is declared
9 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
10 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
11 and enforceable to the fullest extent permitted by law.

12 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
13 A full and detailed account of any and all violations of law shall be reported by Respondent to
14 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
15 compliance with this condition, Respondent shall submit completed fingerprint forms and
16 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
17 as part of the licensure application process.

18 **Criminal Court Orders:** If Respondent is under criminal court orders, including
19 probation or parole, and the order is violated, this shall be deemed a violation of these probation
20 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

21 2. **Comply with the Board's Probation Program.** Respondent shall fully
22 comply with the conditions of the Probation Program established by the Board and cooperate
23 with representatives of the Board in its monitoring and investigation of the Respondent's
24 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
25 within no more than 15 days of any address change and shall at all times maintain an active,
26 current license status with the Board, including during any period of suspension.

27 Upon successful completion of probation, Respondent's license shall be fully
28 restored.

1 3. **Report in Person.** Respondent, during the period of probation, shall
2 appear in person at interviews/meetings as directed by the Board or its designated
3 representatives.

4 4. **Residency, Practice, or Licensure Outside of State.** Periods of
5 residency or practice as a registered nurse outside of California shall not apply toward a reduction
6 of this probation time period. Respondent's probation is tolled, if and when she resides outside
7 of California. Respondent must provide written notice to the Board within 15 days of any change
8 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
9 returning to practice in this state.

10 Respondent shall provide a list of all states and territories where she has ever been
11 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
12 provide information regarding the status of each license and any changes in such license status
13 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
14 new nursing license during the term of probation.

15 5. **Submit Written Reports.** Respondent, during the period of probation,
16 shall submit or cause to be submitted such written reports/declarations and verification of actions
17 under penalty of perjury, as required by the Board. These reports/declarations shall contain
18 statements relative to Respondent's compliance with all the conditions of the Board's Probation
19 Program. Respondent shall immediately execute all release of information forms as may be
20 required by the Board or its representatives.

21 Respondent shall provide a copy of this Decision to the nursing regulatory agency
22 in every state and territory in which she has a registered nurse license.

23 6. **Function as a Registered Nurse.** Respondent, during the period of
24 probation, shall engage in the practice of registered nursing in California for a minimum of 24
25 hours per week for 6 consecutive months or as determined by the Board.

26 For purposes of compliance with the section, "engage in the practice of registered
27 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
28 work in any non-direct patient care position that requires licensure as a registered nurse.

1 The Board may require that advanced practice nurses engage in advanced practice
2 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
3 Board.

4 If Respondent has not complied with this condition during the probationary term,
5 and Respondent has presented sufficient documentation of her good faith efforts to comply with
6 this condition, and if no other conditions have been violated, the Board, in its discretion, may
7 grant an extension of Respondent's probation period up to one year without further hearing in
8 order to comply with this condition. During the one year extension, all original conditions of
9 probation shall apply.

10 **7. Employment Approval and Reporting Requirements.** Respondent
11 shall obtain prior approval from the Board before commencing or continuing any employment,
12 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
13 performance evaluations and other employment related reports as a registered nurse upon request
14 of the Board.

15 Respondent shall provide a copy of this Decision to her employer and immediate
16 supervisors prior to commencement of any nursing or other health care related employment.

17 In addition to the above, Respondent shall notify the Board in writing within
18 seventy-two (72) hours after she obtains any nursing or other health care related employment.
19 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
20 terminated or separated, regardless of cause, from any nursing, or other health care related
21 employment with a full explanation of the circumstances surrounding the termination or
22 separation.

23 **8. Supervision.** Respondent shall obtain prior approval from the Board
24 regarding Respondent's level of supervision and/or collaboration before commencing or
25 continuing any employment as a registered nurse, or education and training that includes patient
26 care.

27 Respondent shall practice only under the direct supervision of a registered nurse
28 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative

1 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
2 are approved.

3 Respondent's level of supervision and/or collaboration may include, but is not
4 limited to the following:

5 (a) Maximum - The individual providing supervision and/or collaboration is
6 present in the patient care area or in any other work setting at all times.

7 (b) Moderate - The individual providing supervision and/or collaboration is in
8 the patient care unit or in any other work setting at least half the hours Respondent works.

9 (c) Minimum - The individual providing supervision and/or collaboration has
10 person-to-person communication with Respondent at least twice during each shift worked.

11 (d) Home Health Care - If Respondent is approved to work in the home health
12 care setting, the individual providing supervision and/or collaboration shall have person-to-
13 person communication with Respondent as required by the Board each work day. Respondent
14 shall maintain telephone or other telecommunication contact with the individual providing
15 supervision and/or collaboration as required by the Board during each work day. The individual
16 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
17 site visits to patients' homes visited by Respondent with or without Respondent present.

18 9. **Employment Limitations.** Respondent shall not work for a nurse's
19 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
20 traveling nurse, or for an in-house nursing pool.

21 Respondent shall not work for a licensed home health agency as a visiting nurse
22 unless the registered nursing supervision and other protections for home visits have been
23 approved by the Board. Respondent shall not work in any other registered nursing occupation
24 where home visits are required.

25 Respondent shall not work in any health care setting as a supervisor of registered
26 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
27 nurses and/or unlicensed assistive personnel on a case-by-case basis.

28 \\\

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$3,000.00. Respondent shall pay these costs as follows: \$1,000.00 within 12 months of the effective date of the Order; \$1,000.00 within 24 months of the effective date of the Order; and \$1,000.00 within 33 months of the effective date of the order.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. **Violation of Probation.** If Respondent violates the conditions of her probation, the Board may, after giving Respondent notice and an opportunity to be heard, set

1 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
2 license.

3 If during the period of probation, an accusation or petition to revoke probation has
4 been filed against Respondent's license or the Attorney General's Office has been requested to
5 prepare an accusation or petition to revoke probation against Respondent's license, the
6 probationary period shall automatically be extended and shall not expire until the accusation or
7 petition has been acted upon by the Board.

8 13. **License Surrender.** During Respondent's term of probation, if she ceases
9 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
10 probation, Respondent may surrender her license to the Board. The Board reserves the right to
11 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
12 take any other action deemed appropriate and reasonable under the circumstances, without
13 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
14 will no longer be subject to the conditions of probation.

15 Surrender of Respondent's license shall be considered a disciplinary action and
16 shall become a part of Respondent's license history with the Board. A registered nurse whose
17 license has been surrendered may petition the Board for reinstatement no sooner than the
18 following minimum periods from the effective date of the disciplinary decision:

19 (1) Two years for reinstatement of a license that was surrendered for any
20 reason other than a mental or physical illness; or

21 (2) One year for a license surrendered for a mental or physical illness.

22 23 ACCEPTANCE

24 I have carefully read the above Stipulated Settlement and Disciplinary Order and
25 have fully discussed it with my attorney, J. Michael Flanagan, Esq. I understand the stipulation
26 and the effect it will have on my Registered Nurse License. I enter into this Stipulated

27 \\\

28 \\\

1 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
2 bound by the Decision and Order of the Board of Registered Nursing.

3 DATED: 2/21/05

4
5 
6 AMY M. BRUNNER
Respondent

7
8 I have read and fully discussed with Respondent Amy M. Brunner the terms and
9 conditions and other matters contained in the above Stipulated Settlement and Disciplinary
10 Order. I approve its form and content.

11 DATED: 2/21/05

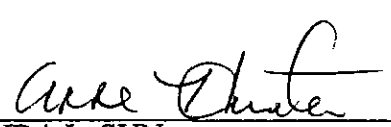
12
13 
14 J. MICHAEL FLANAGAN,
Attorney for Respondent

15
16 **ENDORSEMENT**

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
19 Affairs.

20 DATED: Feb. 28, 2005

21
22 BILL LOCKYER, Attorney General
of the State of California

23
24 
25 for LINDA L. SUN
26 Deputy Attorney General

27 Attorneys for Complainant

2004-07-20 11:31

RECEIVED

ED 1004-287

Exhibit A

Accusation No. 2004-287

BILL LOCKYER, Attorney General
of the State of California
LINDA L. SUN, State Bar No. 207108
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-6375
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2004-287

AMY M. BRUNNER
600 S. Sierra Vista
Alhambra, CA 91801

A C C U S A T I O N

Registered Nursing License No. 604898

Respondent.

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.
2. On or about August 20, 2002, the Board issued Registered Nursing License No. 604898 to Amy M. Brunner (Respondent). The license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2006, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and

1 Professions Code unless otherwise indicated.

2 **STATUTORY PROVISIONS**

3 4. Section 2750 of the Business and Professions Code (Code) provides, in
4 pertinent part, that the Board may discipline any licensee, including a licensee holding a
5 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
6 2750) of the Nursing Practice Act.

7 5. Section 2764 of the Code provides, in pertinent part, that the expiration of
8 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
9 against the licensee or to render a decision imposing discipline on the license. Under section
10 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
11 the expiration.

12 6. Section 118, subdivision (b), of the Code provides that the expiration of a
13 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
14 period within which the license may be renewed, restored, reissued or reinstated.

15 7. Section 2761 of the Code states:

16 "The board may take disciplinary action against a certified or licensed
17 nurse or deny an application for a certificate or license for any of the following:

18 "(a) Unprofessional conduct, which includes, but is not limited to, the
19 following:

20 "(1) Incompetence, or gross negligence in carrying out usual certified or
21 licensed nursing functions.

22

23 (d) Violating or attempting to violate, directly or indirectly, or
24 assisting in or abetting the violating of, or conspiring to violate any provision or term of this
25 chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

26
27 "(k) Except for good cause, the knowing failure to protect patients by
28 failing to follow infection control guidelines of the board, thereby risking transmission of

1 blood-borne infectious diseases from licensed or certified nurse to patient, from patient to
2 patient, and from patient to licensed or certified nurse. In administering this subdivision, the
3 board shall consider referencing the standards, regulations, and guidelines of the State
4 Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety
5 Code and the standards, guidelines, and regulations pursuant to the California Occupational
6 Safety and Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor Code)
7 for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health
8 care settings. As necessary, the board shall consult with the Medical Board of California, the
9 Board of Podiatric Medicine, the Dental Board of California, and the Board of Vocational
10 Nursing and Psychiatric Technicians, to encourage appropriate consistency in the implementation
11 of this subdivision. "The board shall seek to ensure that licentiates and others regulated by the
12 board are informed of the responsibility of licentiates to minimize the risk of transmission of
13 blood-borne infectious diseases from health care provider to patient, from patient to patient, and
14 from patient to health care provider, and of the most recent scientifically recognized safeguards
15 for minimizing the risks of transmission."

16 8. Section 2725 of the Code states:

17

18 "(b) The practice of nursing within the meaning of this chapter [the Nursing
19 Practice Act] means those functions, including basic health care, that help people cope with
20 difficulties in daily living that are associated with their actual or potential health or illness
21 problems or the treatment thereof, and that require a substantial amount of scientific knowledge
22 or technical skill, including all of the following:

23

24 "(2) Direct and indirect patient care services, including, but not limited to, the
25 administration of medications and therapeutic agents, necessary to implement a treatment,
26 disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of a
27 physician, dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health
28 and Safety Code."

1 9. California Code of Regulations, title 16, section 1442, states:

2 "As used in Section 2761 of the code, 'gross negligence' includes an
3 extreme departure from the standard of care which, under similar circumstances,
4 would have ordinarily been exercised by a competent registered nurse. Such an
5 extreme departure means the repeated failure to provide nursing care as required
6 or failure to provide care or to exercise ordinary precaution in a single situation
7 which the nurse knew, or should have known, could have jeopardized the client's
8 health or life."

9 10. California Code of Regulations, title 16, section 1443, states:

10 "As used in Section 2761 of the code, 'incompetence' means the lack of
11 possession of or the failure to exercise that degree of learning, skill, care and
12 experience ordinarily possessed and exercised by a competent registered nurse as
13 described in Section 1443.5"

14 11. California Code of Regulations, title 16, section 1443.5 states:

15 "A registered nurse shall be considered to be competent when he/she
16 consistently demonstrates the ability to transfer scientific knowledge from social,
17 biological and physical sciences in applying the nursing process, as follows:

18 "(1) Formulates a nursing diagnosis through observation of the client's
19 physical condition and behavior, and through interpretation of information
20 obtained from the client and others, including the health team.

21 "(2) Formulates a care plan, in collaboration with the client, which
22 ensures that direct and indirect nursing care services provide for the client's safety,
23 comfort, hygiene, and protection, and for disease prevention and restorative
24 measures.

25 "(3) Performs skills essential to the kind of nursing action to be taken,
26 explains the health treatment to the client and family and teaches the client and
27 family how to care for the client's health needs.

28 "(4) Delegates tasks to subordinates based on the legal scopes of practice

1 of the subordinates and on the preparation and capability needed in the tasks to be
2 delegated, and effectively supervises nursing care being given by subordinates.

3 "(5) Evaluates the effectiveness of the care plan through observation of
4 the client's physical condition and behavior, signs and symptoms of illness, and
5 reactions to treatment and through communication with the client and health team
6 members, and modifies the plan as needed.

7 "(6) Acts as the client's advocate, as circumstances require, by initiating
8 action to improve health care or to change decisions or activities which are against
9 the interests or wishes of the client, and by giving the client the opportunity to
10 make informed decisions about health care before it is provided."

11 12. Section 125.3 of the Code provides, in pertinent part, that the Board may
12 request the administrative law judge to direct a licentiate found to have committed a violation or
13 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
14 and enforcement of the case.

15 DRUG DESCRIPTION

16 13. "Diprivan [Propofol]" is a rapid acting intravenous anesthetic agent, used
17 for the induction and maintenance of anesthesia or sedation. According to the manufacturer,
18 hypnosis and apnea occurs rapidly usually within 40 seconds, and "Propofol should only be
19 administered to intubated, mechanically ventilated, adult patients in the Intensive Care Unit
20 (ICU) to provide continuous sedation and control of stress responses. In this setting, Propofol
21 should be administered only by persons trained in general anesthesia or critical care medicine. .
22 .Strict aseptic techniques must always be maintained during handling as Propofol is a single-use
23 parenteral product and contains no antimicrobial preservatives."

24 BACKGROUND

25 14. From on about June 6, 2003, to June 7, 2003, Respondent was working a
26 12-hour shift from 1900 hours to 0700 hours in the ICU at Providence Saint Joseph's Medical
27 Center, Burbank, California. On June 7, 2003, at about 0100 hours, Respondent was asked by a
28 co-worker, Kelly Ann Miyasato, R.N., if there was a drug available for agitation that could be

1 given to RN Miyasato's patient, Patient P.A. Respondent stated there were two patients in the
2 ICU who were receiving Diprivan. Respondent then went and withdrew approximately 4 to 5 ccs
3 of Diprivan into a syringe from another nurse's patient's running intravenous (IV) tube and left it
4 for RN Miyasato to be administered intravenous push (IVP) to Patient P.A. Patient P.A. was not
5 intubated or ventilated before or after the Diprivan administration. There was no physician's
6 order for Diprivan for Patient P.A. Immediately after the Diprivan administration, Patient P.A.'s
7 oxygen saturation and heart rate started to deteriorate. Respondent attempted to help RN
8 Miyasato reverse the effects of Diprivan by using oxygen, Narcan IV and Epinephrine IV.
9 Patient P.A. was pronounced dead at 0215 hours on June 7, 2003.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Gross Negligence)**

12 15. Respondent is subject to disciplinary action pursuant to section 2761(a)(1)
13 of the Code and in conjunction with Code of Regulations, title 16, section 1442 in that on about
14 June 7, 2003, she was grossly negligent as follows:

15 a. Respondent performed duties outside the scope of the nursing practice
16 and hospital policy by voluntarily withdrawing 4 to 5 ccs of Diprivan from one patient's IV and
17 allowing it to be administered IVP to RN Miyasato's patient, Patient P.A. Diprivan IVP can only
18 be administered to an intubated or ventilated patient and by a physician or an anesthesiologist.

19 b. Respondent failed to obtain and verify the physician's order for Diprivan
20 for Patient P.A.

21 c. Respondent obtained Diprivan to be administered IVP to a patient who
22 was neither intubated nor mechanically ventilated.

23 d. Respondent failed to follow professional and regulatory standards within
24 the scope of medication delivery. Respondent failed to institute appropriate reversal drugs and
25 emergency procedures, after the patient received the IVP Diprivan by RN Miysasato.

26 Respondent failed to recognize that Diprivan is not a narcotic and that Narcan would not be
27 effective in reversing Diprivan's effects.

28 ///

1 e. Respondent failed to adhere to standard infection control guidelines
2 and regulations when Respondent withdrew Diprivan from one patient's intravenous medication
3 to be injected directly into Patient P.A.'s bloodstream through an IV cannula, thereby risking
4 transmission of blood-borne infectious diseases from patient to patient, and from patient to nurse.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Incompetence)**

7 16. Respondent is subject to disciplinary action pursuant to section 2671(a)(1)
8 of the Code on the grounds of unprofessional conduct as defined in California Code of
9 Regulations, title 16, sections 1443 and 1443.5 in that on about June 7, 2003, while on-duty as a
10 registered nurse at Providence Saint Joseph's Medical Center, Burbank, California, Respondent
11 committed acts of incompetence as fully set forth in paragraphs 14 and 15 above.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct)**

14 17. Respondent is subject to disciplinary action pursuant to section 2761(a) of
15 the Code in that on about June 7, 2003, while on-duty as a registered nurse at Providence Saint
16 Joseph's Medical Center, Burbank, California, Respondent committed acts of unprofessional
17 conduct as fully set forth in paragraphs 14 and 15 above.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Failure to Follow Infection Control Guidelines)**

20 18. Respondent is subject to disciplinary action pursuant to section 2761(k) of
21 the Code for the knowing failure to follow infection control guidelines, in that on about June 7,
22 2003, while on-duty as a registered nurse at Providence Saint Joseph's Medical Center, Burbank,
23 California, Respondent obtained Diprivan from another patient's intravenous medication, to be
24 administered IVP to Patient P.A. The circumstances are as more fully set forth in paragraphs 14
25 and 15 above.

26 ///

27 ///

28 ///

FIFTH CAUSE FOR DISCIPLINE

(Violation of the Nursing Practice Act)


19. Respondent is subject to disciplinary action pursuant to section 2761(d) of the Code, in that from on or about June 6, 2003, to June 7, 2003, Respondent violated or attempted to violate, directly or indirectly the provisions of the Nursing Practice Act, as alleged in paragraphs 15 through 18 above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nursing License No. 604898, issued to Amy M. Brunner;
2. Ordering Amy M. Brunner to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/9/04


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant